IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7471 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SAFIMIYA FARIDMIYA MALEK

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 7471 of 2004

MS KRISHNA U MISHRA for Petitioner No. 1

MS HB PUNANI, AGP for Respondent No. 1-3

CORAM : HON'BLE MR.JUSTICE C.K.BUCH

Date of decision: 29/11/2004

ORAL JUDGEMENT

1. Heard ld. Ms. KU Mishra for the petitioner and ld. APP Ms. HB Punani for the respondents.

2. By this petition under Article 226 read with Articles 21 & 22 of the Constitution of India, the petitioner- detenu has challenged the legality and validity of the order of detention dated 07.05.2004 passed by the Commissioner of Police, Ahmedabad City in exercise of the powers conferred on him by Section 3(2) of The Gujarat Prevention of Anti-Social Activities Act, 1985 (hereinafter referred to as the PASA Act) against the petitioner-detenu. The petitioner is branded as "boot-legger" as defined under sec.2(b) of the PASA Act.

3. It has been submitted by ld. counsel Ms. Mishra appearing for the petitioner that the present petitioner is a co-detenu of petitioner of Spl.C.A. No. 7309/2004 and both the petitioners came to be detained under PASA Act vide impugned order of detention on the same grounds. It is further submitted by ld. counsel Ms. Mishra that today, this Court has quashed and set aside the impugned order of detention on main two grounds while dealing with the aforesaid petition i.e. Spl.C.A. No. 7309/2004 filed by the co-detenu Jagdishbhai Kalubhai Bhavsar, today i.e. on 29.11.2004. The petitioner also came to be detained under PASA Act on the single solitary offence being GIDC (Vatva) Police Station Pro. CR No.5071/2004.Along with the petitioner, in connection with the said offence, two other persons were arrested and detained under PASA. In view of above, it has been submitted by ld. counsel Ms. Mishra that on the ground of parity also the present petitioner being co-detenu is required to be released over and above the grounds mentioned in the petition which are practically same which are advanced in the above-referred writ petition filed by the co-detenu. Ld. counsel appearing for the petitioner has also taken this Court through the grounds raised in this petition and arguments advanced which are practically similar to those raised in the above-reffered petition filed by the co-detenu.

4. So, adopting the reasons assigned by this Court in Spl.C.A. No. 7309/2004 preferred by co-detenu decided by this Court today i.e. on 29.11.2004, and also on the ground of parity, the present petition requires to be allowed and impugned order of detention requires to be quashed and set aside.

5. For the reasons aforesaid, this petition is allowed. Impugned order of detention dated 07.05.2004 passed by the Commissioner of Police, Ahmedabad City is is hereby quashed and set aside and detenu is hereby ordered to be set at liberty forthwith if he is not

required to be detained in any other case. Rule is made absolute.

Registry is directed to place copy of decision of this Court in Spl.C.A. No. 7309/2004 with the papers of this petition.

Direct Service is permitted.

[C. K.BUCH, J]

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